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Attorneys for Defendants
American Overseas Marine Corporation
and General Dynamics Corporation

IN THE UNITED STATES DISTRICT COURT
FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

KENNETH COUTURE,
Plaintiff,

vs.

AMERICAN OVERSEAS MARINE
CORPORATION and GENERAL
DYNAMIC CORPORATION,
Defendants.

CIVIL ACTION NO. CV05-0024

**DEFENDANTS EX PARTE MOTION
UNDER LOCAL RULE 7.1.h.3(b) FOR
AN ORDER ALLOWING
DEFENDANTS TO FILE UNDER SEAL
MOTION FOR SUMMARY
JUDGMENT AND EXHIBITS A-D IN
SUPPORT OF THE MOTION;
DECLARATION OF SERVICE**

**DATE: N/A
TIME: N/A**

Defendants American Overseas Marine Corporation (AMSEA) and General Dynamics Corporation (GENDYN) pursuant to Local Rule 7.1.h.3(b) and LR 12.1, move Ex Parte for an Order allowing AMSEA and GENDYN to file under seal their Motion for Summary Judgment and Exhibits A-D in support thereof.

1 AMSEA and GENDYN timely filed their Summary Judgment Motion and exhibits on
2 February 1, 2007. Also filed the same day was a pleading titled "Notice of Filing Under Seal."
3 The Court initially accepted all pleadings so filed under seal together with the exhibits.
4 Subsequently, an e-mail from Court personnel indicated that the Motion would not be considered
5 filed under seal. This Ex Parte Motion seeks an Order preserving the under seal filing and the
6 confidentiality of the Motion together with the exhibits thereto.
7

8 The Summary Judgment Motion itself should only be sealed until such time as Plaintiff
9 files his Motion for Summary Judgment, but in any event not later than February 9, 2007. The
10 exhibits to AMSEA's Motion, with the exception of Exh. A, Plaintiff's answers to certain
11 interrogatories, should remain sealed until further Order of the Court. The basis for the under
12 seal filing and good cause for granting this Ex Parte Motion is as follows.
13

14 As concerns AMSEA's Motion for Summary Judgment, as noted above the Motion was
15 timely filed on February 1, 2007, the dispositive Motion deadline. Plaintiff was unable to
16 likewise file his Summary Judgment Motion on February 1, 2007 due to communication
17 difficulties between Plaintiff and counsel as Plaintiff is currently at sea on the vessel USNS 1st
18 Lt. JACK LUMMUS.

19 Accordingly, on February 1, 2007 Plaintiff moved Ex Parte for an extension of time to
20 file his Summary Judgment Motion, and obtained a one week extension until February 8, 2007.
21 AMSEA and GENDYN did not seek an extension to file their Motion electing instead to "play it
22 safe" and file on the dispositive Motion deadline. AMSEA and GENDYN did not oppose
23 Plaintiff's Ex Parte Motion for an extension of time to file on the basis of AMSEA and
24 GENDYN's Motion remaining under seal until such time as Plaintiff filed his Motion, thereby
25 keeping the parties on a level playing field insofar as preparing an opposition to each others
26 Motion.
27
28

1 As concerns the exhibits to AMSEA's Summary Judgment Motion, with the exception of
2 Exh. A. as noted above, the remaining exhibits should remain under seal as they contain
3 proprietary, confidential, and sensitive information concerning AMSEA and GENDYN business
4 with the United States and sensitive confidential information regarding the operation of Military
5 Sealift Command vessels, including the USNS JACK LUMMUS. Furthermore, Plaintiff's
6 counsel will be provided with sealed copies of such exhibits, and have agreed to maintain the
7 confidentiality of such exhibits and to return the exhibits to AMSEA and GENDYN when they
8 are no longer needed for this action.
9

10 Certification Pursuant to Local Rule 7.1.h.3(b). AMSEA and GENDYN have complied
11 with the requirements for moving Ex Parte for an Order preserving the under seal filing made on
12 February 1, 2007. Counsels' respective, phone, fax, and office locations appear in this pleading.
13

14 The facts stated above establish the basis for the ex parte application.

15 Counsel for Defendant David Ledger has on February 5, 2007 tried twice by phone and
16 once by e-mail to contact Plaintiff's Counsel, Bruce Berline to confirm Mr. Berline has no
17 objection to this Ex Parte request. As of the filing of this Motion, Mr. Berline has not been able
18 to respond. However, Mr. Berline has been provided with a PDF version of this Motion by way
19 of e-mail transmission on February 5, 2007; further, as the matters above regarding the Motion
20 and exhibits being under seal were agreed to informally between Ledger and Berline, it appears
21 unlikely that Mr. Berline would have objections to this Ex Parte Motion. In the unlikely event of
22 this occurring, it will be dealt with properly and forthwith.
23

24 Granting this request will not impact the hearing of the respective Motions for Summary
25 Judgment, now set for March 15, 2007 at 10:00 a.m..
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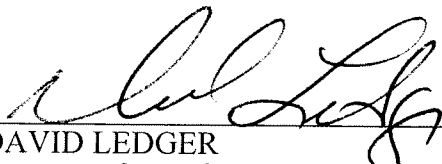
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1 Based on the foregoing, AMSEA and GENDYN hereby respectfully request the Court to
2 GRANT this Ex Parte Application for under seal filing as described above.

3 DATED: February 5, 2007.

4 CARLSMITH BALL LLP

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7 DAVID LEDGER
8 Attorneys for Defendant
9 American Overseas Marine Corporation
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DECLARATION OF SERVICE

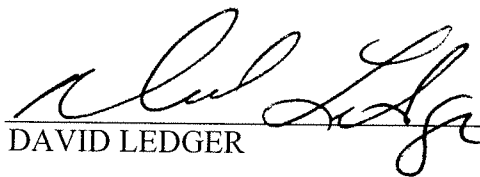
The undersigned hereby declares that on the 5th day of February 2007, I will cause to be served, via electronic filing/service, a true and correct copy of **DEFENDANTS EX PARTE MOTION UNDER LOCAL RULE 7.1.H.3(B) FOR AN ORDER ALLOWING DEFENDANTS TO FILE UNDER SEAL MOTION FOR SUMMARY JUDGMENT AND EXHIBITS A-D IN SUPPORT OF THE MOTION; DECLARATION OF SERVICE** upon the following Counsels of record:

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and

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DATED: February 5, 2007.


DAVID LEDGER